IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 923 OF 2004

Shri Narayan Hari Deolekar ..Petitioner

Vs.

1. United of India and anr. ..Respondents

Mr. H.C. Palve for petitioner.
Mrs. N.V. Masurkar for respondents.

CORAM: B.H. MARLAPALLE & NARESH H. PATIL,JJ.

Date : September 11, 2006.

P.C.:

1. The petitioner is aggrieved by the order dated 25/11/1997 passed by the Division Bench of the Central Administrative Tribunal at Mumbai rejecting O.A. No.671 of 1991. It is also pertinent to note that against the order under challenge, a review petition was filed by the petitioner before the CAT and same was also dismissed on 21/9/1998.

2. The petitioner was promoted to the next higher post with effect from 28/2/1990. However, the respondent-authorities realised that by mistake one of the juniors to the petitioner was given promotion to the very same post in the year 1985 and to correct

this anomaly in the promoted grade, the petitioner was given a notional promotion with effect from 1/1/1984 and he, therefore, approached the Tribunal claiming arrears of pay and allowances as applicable to the promoted post with effect from 1/1/1984 to 28/2/1990.

The application has been dismissed.

3. The Division Bench of the Tribunal noted that the petitioner had not raised any grievance about his promotion with effect from 1/1/1984 even though his name figured in the selected panel for the year 1984-85. He was granted promotion for the first time with effect from 28/2/1990. When the notional promotion was granted to the petitioner to ensure that his junior does not become senior to him in the promoted grade, he could not have been actually discharging his duties in the promotional post with effect from 1/1/1984 and till the date of his actual promotion. If he had not worked in the promoted post, obviously, he would not be entitled for the pay and allowances difference on the basis of the notional promotion. The notional promotion was granted only to remove the anomaly and that too after the promotion was effected on 28/2/1990. This view taken by the

Tribunal cannot be termed as perverse or grossly erroneous so as to call for intervention at our hands under the supervisory powers under Articles 226 and 227 of the Constitution.

4. Hence, the petition fails at the threshold and the same is hereby rejected summarily.

(Naresh H. Patil, J.) **(B.H. Marlapalle,J.)**